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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,836	02/25/2004	Hans Zwimfer	IBM-6752	2963
26294	7590	10/23/2006		
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
			EXAMINER LAUX, JESSICA L	
			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,836

Applicant(s)

ZWIMPFER, HANS

Examiner

Jessica Laux

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement is made of the amendment to the specification and claims filed 02/25/2004.

Claim Rejections - 35 USC § 112

Claims 1 and 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1

- it is unclear what is meant by the limitation "the surface area of the single storey dwelling part having at least the surface area F in m² of the surface area of the two-storey...".

Claim 3

- it is unclear what is meant by the limitations "with the same living area in each case"
- there is lack of antecedent basis in the claims for the limitation "the residential unit"
- there is lack of antecedent basis in the claims for the limitation "the single storey dwelling part...located above"

Claim 4

- there is lack of antecedent basis in the claims for the limitation "a residential unit of the single storey dwelling part"

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- there is lack of antecedent basis in the claims for the limitation "the dwelling located above"
- it is unclear what is meant by the limitation "same surface area for the single storey dwelling..."

Claim 5

- there is lack of antecedent basis in the claims for the limitation "the ground floor"
- the limitation "open plan and the same ceiling height... over the entire surface area" is unclear and indefinite. The common definition of surface area is the summation of the areas of the exposed sides of an object, which in the instant case would be the summation of the areas of all of the sides of the dwelling. It is therefore unclear what is meant by open plan and the same ceiling height over the entire surface area.

Claim 6

- there is lack of antecedent basis in the claims for the limitation "the lower storeys"
- the limitation "open plan and the same ceiling height... over the entire surface area" is unclear and indefinite. The common definition of surface area is the summation of the areas of the exposed sides of an object, which in the instant case would be the summation of the areas of all of the sides of the dwelling. It is therefore unclear what is meant by open plan and the same ceiling height over the entire surface area.

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Claim 7

- there is lack of antecedent basis in the claims for the limitation "the lower storeys" and "each storey"
- it is unclear how staggered dwellings are constructed above the storeys when claim 1 recites the limitation that the staggered dwellings comprise a single storey and two storey parts.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Berman (3755974).

Regarding claim 1: Berman discloses a residential building with staggered dwellings, based on the construction with a building shell and with a design which is characterized by columns and load-bearing beams and bears floor areas and the roof, and with space available, in staggered form, for dwellings with an open plan and a living area which can be adapted to individual requirements for each residential unit, characterized in that a dwelling comprises a single-storey dwelling part (10) and a two-storey dwelling part (30), the surface area of the single-storey dwelling part having at least the surface area F in m^2 of the surface area of the two-storey dwelling part (Figures 1 and 2), and the latter comprising an outdoor area (31,32), which is directed towards the facade, and an indoor area.

Regarding claim 2: Residential building according to claim 1, characterized in that, in a residential building, the two-storey dwelling parts of all the staggered dwellings have the same surface area (Figure 1, where Berman has one design of a two story dwelling part).

Regarding claim 3: Residential building according to claim 1, characterized in that arranged above a single-storey dwelling part with the same living area in each case is the single-storey dwelling part of the residential unit located above (where 10 and 20 are both single storey dwelling parts in that they each comprise a single storey).

Regarding claim 4: Residential building according to claim 1, characterized in that the surface area of a residential unit of the single-storey dwelling part can be extended as desired (Col. 4, lines 46-47, where the length is extended with a deck as with 20), the dwelling located above (30) having the same surface area for the single-storey dwelling part (Figure 1, where 30 has been extended as well).

Regarding claim 5: Residential building according to claim 1, characterized in that, on the ground floor, an open plan and the same ceiling height are provided over the entire surface area (where 10 has the same height).

Regarding claim 6: Residential building according to claim 1, characterized in that the lower storeys have an open plan over the entire surface area and the same ceiling height over in each case one storey (where 20 and 30 have the same height).

Regarding claim 7: Residential building according to claim 1, characterized in that staggered dwellings are constructed above the lower storeys, which each have the same ceiling height for each storey.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JL

09/25/2003